

September 19, 2022

By ECF

The Honorable Jesse M. Furman
United States District Judge
Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 2202
New York, NY 10007

Re: *Natural Resources Defense Council et al. v. Granholm et al.*, 20 Civ. 9127 (JMF)
State of New York et al. v. Granholm et al., 20 Civ. 9362 (JMF)

Dear Judge Furman:

The parties in these two related actions write respectfully to request that the Court enter the attached proposed consent decree in the above-referenced actions. As previously reported to the Court, the parties have engaged in extensive settlement discussions over the last several months, which has resulted in a consent decree acceptable to all parties. The proposed consent decree resolves all claims against Jennifer Granholm,¹ in her official capacity as United States Secretary of Energy, and the U.S. Department of Energy (collectively, “DOE” or “the Government”) brought by Plaintiffs Natural Resources Defense Council, Center for Biological Diversity, Consumer Federation of America, Massachusetts Union of Public Housing Tenants, Public Citizen, and Sierra Club (collectively, the “NGO Plaintiffs”), Plaintiffs States of New York, California, Colorado, Connecticut, Illinois, Maine, Maryland, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Vermont, and Washington; the Commonwealths of Massachusetts and Pennsylvania; the People of the State of Michigan; the District of Columbia; and the City of New York (collectively, the “State Plaintiffs”), and Plaintiff-Intervenors Association of Home Appliance Manufacturers (“AHAM”) and Air-Conditioning, Heating & Refrigeration Institute (“AHRI,” and together with AHAM, the “Plaintiff-Intervenors”).

The complaints and complaints-in-intervention in these actions allege that DOE missed deadlines under Subchapter III of the Energy Policy and Conservation Act, 42 U.S.C. §§ 6291–6317, for reviewing and, as appropriate, revising energy conservation standards for consumer products and industrial equipment. The proposed consent decree provides relief to all plaintiffs by setting court-ordered deadlines that DOE has committed to meet for each of the outstanding regulatory activities at issue in the complaints and complaints-in-intervention. Those deadlines were painstakingly negotiated between the NGO Plaintiffs, the State Plaintiffs, the Plaintiff-Intervenors, and DOE, and they reflect the need for DOE to take certain statutorily-required actions under EPCA, while recognizing that DOE requires sufficient time to perform the required reviews and any necessary revisions without pre-judging the outcome of any reviews or limiting the discretion that DOE has in completing this regulatory activity.

The proposed consent decree also includes provisions, again carefully negotiated by the parties, that account for potential intervening events and changed circumstances, along with notice of any proposed modifications and an opportunity to be heard. The proposed consent

¹ Secretary Granholm is automatically substituted as a defendant for former Secretary Dan Brouillette pursuant to Federal Rule of Civil Procedure 25(d).

decree fully resolves all claims in this action, and the parties jointly and respectfully request that the Court enter it forthwith.²

* * *

Thank you for your consideration of this matter.

Respectfully submitted,

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² The parties previously set forth the bases for jurisdiction and venue in the joint April 18, 2022, status update filed in the two related actions.

³ Pursuant to S.D.N.Y. ECF Rule 8.5(b), all parties have granted consent to electronically file this joint letter.

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Encl. (Proposed Consent Decree)